

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

House Bill 4668

FISCAL
NOTE

BY DELEGATE CAPITO

[Introduced February 14, 2022; Referred to the
Committee on the Judiciary]

1 A BILL to amend and reenact §17C-15-50 of the Code of West Virginia, 1931, as amended,
2 relating to air bag fraud; prohibiting counterfeit and nonfunctional air bags; establishing
3 penalties for prohibited activities related to air bag fraud; specifying the applicability of the
4 section; and creating exceptions.

Be it enacted by the Legislature of West Virginia:

ARTICLE 15. EQUIPMENT.

§17C-15-50. Deployed restraint systems resale or reinstallation Air bag fraud; counterfeit and nonfunctional air bags prohibited; penalties; applicability; exceptions.

5 ~~A person who knowingly installs or reinstalls any object in lieu of an air bag or anything~~
6 ~~other than a not previously deployed air bag that was designed in accordance with federal safety~~
7 ~~regulations for the make, model and year of vehicle, as part of a vehicle inflatable restraint system,~~
8 ~~is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than one thousand~~
9 ~~nor more than \$5,000, or imprisoned in the county or regional jail not more than one year, or both~~
10 ~~fined and imprisoned~~

11 (a) For purposes of this section:

12 (1) "Air bag" means an inflatable occupant supplemental restraint system, including all
13 component parts, such as the cover, sensors, controllers, inflators, and wiring, designed to
14 activate in a motor vehicle in the event of a crash to mitigate injury or ejection and that meets the
15 federal motor vehicle safety standards set forth in 49 C.F.R. 571.208 for the make, model, and
16 model year of the motor vehicle.

17 (2) "Counterfeit air bag" means an air bag or component of an air bag displaying a mark
18 identically or substantially similar to the genuine mark of a motor vehicle manufacturer or supplier
19 of parts to a motor vehicle manufacturer, without the authorization of the motor vehicle
20 manufacturer or supplier, respectively.

21 (3) "Nonfunctional air bag" means any of the following:

22 (A) A replacement air bag that has been previously deployed or damaged;

23 (B) A replacement air bag that has an electric fault that is detected by the vehicle's air bag
24 diagnostic system when the installation procedure is completed and the vehicle is returned to the
25 customer who requested the work to be performed or when ownership is intended to be
26 transferred;

27 (C) A counterfeit air bag, air bag cover, or some other object that is installed in a motor
28 vehicle in order to mislead or deceive an owner or operator of the motor vehicle into believing that
29 a functional air bag has been installed; or

30 (D) An air bag subject to the prohibitions of 49 U.S.C. §30120(i).

31 (b) A person who does any of the following is guilty of a misdemeanor and, upon conviction
32 thereof, shall be fined not less than \$1,000 nor more than \$5,000, or confined in a regional jail for
33 not more than one year, or both fined and confined: *Provided*, That if the violation results in the
34 serious bodily injury or death of any person, the person in violation of this section is guilty of a
35 felony, and, upon conviction thereof, shall be fined not less than \$2,500 nor more than \$10,000
36 or imprisoned in a state correctional facility for not less than one nor more than five years, or both
37 fined and imprisoned:

38 (1) Knowingly import, manufacture, sell, offer for sale, install, or reinstall in a motor vehicle,
39 a counterfeit air bag, a nonfunctional air bag, or an object that does not comply with Federal Motor
40 Vehicle Safety Standard Number 208 (49 CFR 571.208) for the make, model, and year of the
41 motor vehicle;

42 (2) Knowingly sell, offer for sale, install, or reinstall in any motor vehicle a device that
43 causes a motor vehicle's diagnostic system to inaccurately indicate that the motor vehicle is
44 equipped with a properly functioning air bag; or

45 (3) Knowingly sell, lease, trade or transfer a motor vehicle if the person knows that a
46 counterfeit air bag, a nonfunctional air bag, or an object that does not comply with Federal Motor
47 Vehicle Safety Standard Number 208 (49 CFR 571.208) for the make model, and year of the
48 motor vehicle has been installed as part of the motor vehicle's inflatable restraint system.

49 (c) This section does not apply to:

50 (1) A person installing, reinstalling or replacing an air bag or other component of a vehicle's
51 inflatable restraint system on a vehicle used solely for police work; or

52 (2) An owner or employee of a motor vehicle dealership or the owner of a vehicle who,
53 before the sale of the vehicle, does not have knowledge that the vehicle's air bag, or another
54 component of the vehicle's supplemental restraint system, is counterfeit or nonfunctioning.

55 (d) Nothing in this section shall be construed as to limit the liability in a civil action of any
56 person who violates the provisions of this section.

57 (e) Nothing in this section shall be construed as to create a duty that, before the sale of a
58 vehicle, an owner or employee of a motor vehicle dealership or the owner of a vehicle inspect a
59 vehicle in possession of the dealership or owner to determine whether the air bag, or another
60 component of the vehicle's supplemental restraint system is counterfeit or nonfunctional.

NOTE: The purpose of this bill is to prohibit counterfeit and nonfunctional air bags. The bill establishes penalties for air bag fraud. The bill specifies the applicability of the section. Finally, the bill creates exceptions for the section.

Strike-throughs indicate language that would be stricken from a heading or the present law, and underscoring indicates new language that would be added.